

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

United States of America,

Case No.: 2:14-cr-00004-JAD-VCF

Plaintiff

V.

Lanalsikov Lowe,

Defendant

**Order Granting Motion to Reconsider,
Vacating Order, and
and Directing Further Briefing**

[ECF No. 329]

Lamalsikou Lowe¹ is serving an 87-month federal prison sentence after a jury found him guilty of being a felon in possession of a firearm and possessing cocaine with intent to distribute and the Ninth Circuit affirmed.² In a one-page motion, Lowe moved under 28 U.S.C. § 2255 to vacate his conviction for being a felon in possession of a firearm under the Supreme Court’s recent decision in *Rehaif v. United States*.³ I denied that motion without requesting government response because I found that the files and records of this case conclusively show that he is entitled to no such relief.⁴

15 Lowe’s counsel now points out in a motion for relief from judgment that I entered that
16 ruling prematurely and while the court was waiting for his counsel to consult with Lowe about
17 his pro se motion.⁵ Counsel asks me to set aside that ruling and allow him to supplement Lowe’s
18 pro se arguments before making the decision on § 2255 relief.⁶ The government responds that it

¹ The spelling of Lowe's name in the caption is error.

² ECF Nos. 271; 285.

³ *Rehaif v. United States*, 139 S. Ct. 2191 (2019).

⁴ ECF Nos. 327, 328.

23 | ⁵ ECF No. 329.

6 Id.

1 has no objection to allowing the supplementation, and it argues that my order resolving Lowe's
2 pro se motion was erroneous in another way: this Court lacked the authority to reach the merits
3 because the motion constitutes an unauthorized second and successive petition.⁷

4 Because I prematurely denied the motion without waiting for a supplemental filing from
5 counsel, IT IS HEREBY ORDERED that the motion for reconsideration [ECF No. 329] is
6 **GRANTED.**⁸

7 IT IS FURTHER ORDERED that the Order Denying Motion to Vacate Sentence and
8 resulting judgment [ECF Nos. 327 & 328] are **VACATED and SET ASIDE**, and the Motion to
9 Vacate Sentence under 28 U.S.C. 2255 [ECF No. 319] is **REINSTATED**.

10 IT IS FURTHER ORDERED that counsel for defendant has until June 15, 2020, to file a
11 supplement to Lowe's pro se motion [ECF No. 319]. The government will have until July 15,
12 2020, to file a response to the supplemented motion. Counsel for defendant will then have until
13 July 31, 2020, to file a reply. No further briefing on this issue will be entertained.

14 Dated: June 5, 2020

15 
16 U.S. District Judge Jennifer A. Dorsey

23⁷ ECF No. 330.

⁸ By this order, I take no position on the merits of the government's arguments.